

TITLE 14. Fish and Game Commission
Notice of Proposed Emergency Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5, of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 206, 215, and 316.5 of said Code, proposes to amend subsection (b)(91.1) of Section 7.50, Title 14, California Code of Regulations, relating to Klamath River basin sport fishing.

Informative Digest/Policy Statement Overview

Emergency regulatory action by the Fish and Game Commission (Commission) is needed to protect wild Klamath River spring-run Chinook salmon (KRSC) stocks. KRSC are a unique race of Chinook salmon distinguished by their temporal and spatial distribution in the basin.

Current regulations restrict the take of Chinook salmon on Klamath River from 3500 feet downstream of Iron Gate Dam to the Highway 96 Bridge at Weitchpec and on the Trinity River main stem from the mouth of the Trinity River South Fork downstream to the confluence with the Klamath River. Under those regulations, no salmon over 22 inches total length may be retained from April 1 through November 30, 2006. These protective measures have been in place each year since 2002, but will not be effective this year on April 1 due to the addition of the year for these two areas in the 2006 regulations.

The California Department of Fish and Game (Department) believes that these stocks merit protection and the present problem was not discovered until late January 2007. The proposed emergency regulatory change will strike the year off the ending date of current regulations for these areas to continue the present protections until the 2007 Klamath Basin regulations are adopted and in place by July 2007.

KRSC enter the Klamath River in the late winter and early spring of the year. They migrate to headwater streams offering cold water refugia where they over summer prior to spawning in the early autumn. The distribution of KRSC is currently limited to two sub-basins of the Klamath River, the Salmon River and the South Fork of the Trinity River.

Over the past two decades, wild KRSC salmon stocks appear to be in a state of rapid decline. In 1964, mark-recapture studies conducted on the South Fork of the Trinity River estimated the run at over 11,600 individuals. Over the last 27 years, the number of KRSC observed on the South Fork of the Trinity River has averaged 245 individuals. Over the last 26 years counts of Salmon River, KRSC stocks have ranged from 1,397 to 81, with an average of 544 individuals. If KRSC stocks are not adequately protected, there is a significant risk that their numbers will decline to levels that will lead to listing under the state and/or federal Endangered Species Acts.

Wild KRSC salmon stocks have also been identified as source of a stock for future restoration of KRSC salmon stocks in the upper Klamath Basin pending the proposed removal of the upper Klamath River dams.

This oversight in the current regulatory language allows a window during which these depressed stocks are vulnerable to excessive harvest. The annual 2007 Klamath regulation package includes new language to continue to protect KRSC each year and is scheduled to be effective by July 2007. This proposed emergency action is the most expedient manner to

continue protection for these KRSC stocks until the final 2007 Klamath regulations are effective.

The regulations as proposed in strikeout-underline format are attached to this notice.

Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Section 240 Finding

Pursuant to Section 240 of the Fish and Game Code, the Commission made the finding that the adoption of this regulation is necessary for the immediate conservation, preservation or protection of birds, mammals, reptiles, or fish, including, but not limited to, any nests or eggs thereof.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

This proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations do not reduce or increase angling opportunity. Regulations restricting the harvest of KRSC have been in place on these reaches of the Klamath River and Trinity River for several years. Angling for other species, both anadromous and resident, is permitted during the restrictions proposed to protect KRSC. Catch and release angling of KRSC is permitted under these proposed regulations. The ending date of these regulations will be crafted annually to allow harvest of Klamath River fall-run Chinook salmon in years where in-river harvest is allocated.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: March 5, 2007

John Carlson, Jr.
Executive Director